



United States Senate

WASHINGTON, DC 20510-0905

BILL NELSON
FLORIDA

February 18, 2005

Honorable Deborah Majoras
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Status of Data Brokers' Products under the Fair Credit Reporting Act

Dear Madam Chairman:

As a long time advocate of consumer privacy rights, I am writing to express my alarm after learning that hundreds of thousands of personal consumer records may have been illegally obtained by an identity theft operation.

Just a few days ago, the news broke that ChoicePoint Inc., a firm commonly referred to as a "data broker" or "information aggregator," allowed identity thieves to access critical personal dossiers stored on the firm's massive computer databases. Investigators believe that identity thieves may have gained access to the most highly sensitive personal data on 400,000 consumers nationwide. If this is not an eye opening case on the threat to consumer privacy, then nothing is.

Data brokers' primary business purpose is to collect consumer data – including names, addresses, social security numbers, credit reports, asset records, and driving records – and to create individual consumer profiles from this sensitive information. Data brokers then sell this information to government agencies and private companies, which use these sophisticated products to make a range of decisions about the most fundamental aspects of consumers' lives: where they are hired to work, whether they secure a home loan, whether they are a suitable tenant, whether they can get on an airplane, or whether they qualify for health insurance. ChoicePoint's vice president indeed recognized the scope of his company's reach when he stated in a January 20, 2005 Washington Post article, "We do act as an intelligence agency, gathering data, applying analytics."

I have reason to believe that data brokers may be designing their diverse information products to avoid the requirements of the Fair Credit Reporting Act (FCRA), the law enforced by your agency. Congress passed FCRA 35 years ago to ensure that compilations of personal consumer information are properly maintained and used by companies that collect and furnish information contained in consumer credit reports.

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ChoicePoint recently asserted in a letter to your agency that much of the information it compiles – including dossiers sold to investigative, law enforcement, or governmental entities – is not covered under FCRA.

With this letter, I am requesting a meeting with you as soon as possible. As my staff begins work on drafting an amendment to FCRA, I would like to discuss the following issues, among others, at our meeting.

- Which products offered by data brokers fall inside the protections of FCRA and which products fall outside? If data brokers create products from FCRA sources, then does the FTC consider these products to be consumer reports under FCRA?
- What rights do consumers have to check the accuracy of data brokers' dossiers, and more importantly, to correct these records?
- Should data brokers have any responsibility to contact consumers whose records have been improperly obtained by third parties?
- What recommendations does the FTC have for ensuring that consumers receive the full range of protections under FCRA when data brokers assemble consumer dossiers?

I believe that the time may have come for Congress to update FCRA to reflect the modern information age, where consumer information can be transmitted and assembled electronically and cheaply. If this nation's consumer protections do not reflect advances in information technology, then FCRA – in its current form – could be rendered outdated, and consumers may suffer devastating consequences.

Please contact my counsel Michael Sozan at 202-224-8749 as soon as possible to arrange a meeting time.

Sincerely,

A handwritten signature in black ink that reads "Bill Nelson". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Bill Nelson

cc: Sen. Ted Stevens
Sen. Daniel Inouye